

Federal Communications Commission

FCC 01-165

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matters of)	
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AT&T COMMUNICATIONS)	CC Docket No. 90-111
)	
Tariff F.C.C. No. 15)	Transmittal No. 1854
Competitive Pricing Plan No. 2)	
)	
)	
AT&T COMMUNICATIONS)	CC Docket No. 90-327 ✓
)	CC Docket No. 91-116
Tariff F.C.C. No. 15)	
Competitive Pricing Plan Nos. 4, 5, 6, 8,)	
9, 10, 12, 13, 15, 16, 17, and 18)	

ORDER CONCLUDING INVESTIGATIONS

Adopted: May 17, 2001

Released: May 21, 2001

By the Commission:

1. In this Order, we terminate our investigations of AT&T Corporation's (AT&T) Tariff F.C.C. No. 15, Competitive Pricing Plan (CPP) numbers 2, 4, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, and 18. As discussed below, the investigations are moot.

2. On October 23, 1989, AT&T Corporation filed Transmittal No. 1854 under Tariff 15 seeking to offer below generic-tariff rates on long distance service to customers who had received competitive offers from other carriers.¹ AT&T established a total of 22 CPPs under

¹ Specifically, CPP 2 contained special discounts on AT&T's general 800 Service and Software Defined Network (SDN) rate schedules. *AT&T Communications Tariff F.C.C. No. 15, Competitive Pricing Plan No. 2, Resort Condominiums International*, 6 FCC Rcd 5648 (1991) (*RCI Order*), remanded in an unpublished order (D.C. Cir. January 21, 1992). Nine of the remaining 12 CPPs at issue here provide eligible customers with percentage discounts on their monthly billings for particular services or a special usage rate. These discounts range from 2 to 23.2 percent and each plan provides a single service or some combination of services such as (SDN), World Connect, and 800 Service. The remaining three CPPs provide individual, named customers with either a one-time credit against the customer's initial Tariff 15 bill or a waiver of certain monthly recurring charges. *AT&T Communications, Tariff F.C.C. No. 15 Competitive Pricing Plan Nos. 4, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, and 18*, 6 FCC Rcd 6656 (1991) (*1991 Designation Order*).

Tariff 15. Of these, 9 CPPs were either rejected by the Commission or withdrawn by AT&T. The Commission found that the Tariff 15 CPPs as filed might permit AT&T to engage in anti-competitive practices or unreasonable discrimination against customers in violation of sections 201(b) and 202(a) of the Communications Act of 1934.² Acting pursuant to delegated authority, the Common Carrier Bureau suspended the remaining 13 CPPs and set them for investigation. The Commission³ and the Bureau⁴ designated issues for investigation relating to the 13 CPPs. The CPPs went into effect at the end of the maximum five-month suspension pursuant to section 204 of the Act.⁵

3. On July 23, 1999, AT&T filed Transmittal No. 11379 to cancel Tariff F.C.C. No. 15 in its entirety, effective July 24, 1999.⁶ AT&T asserts that the cancellation of Tariff F.C.C. No. 15 has no negative impact on customers.⁷ AT&T states that currently there are no existing CPP customers being served under its Tariff F.C.C. No. 15 and that the telecommunications services provided under this tariff remain available under various other AT&T tariffs.⁸

4. Because there are no existing CPP customers and AT&T has withdrawn Tariff F.C.C. No. 15 in its entirety, we conclude our investigations of CPP numbers 2, 4, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, and 18. The issue of whether the Tariff 15 CPPs as filed might permit AT&T to engage in anti-competitive practices or unreasonable discrimination against customers in violation of sections 201(b) and 202(a) of the Communications Act of 1934 has been rendered moot by AT&T Corporation's cancellation of Tariff F.C.C. No. 15. The Commission began this investigation out of concern that the rates at issue were too low and were not available to others. Therefore, no refunds were ever at issue.

² See, e.g., *RCI Order*, 6 FCC Rcd at 5648-49 (rejecting a CPP on ground of unreasonable discrimination under section 202(a)); *AT&T Communications Tariff F.C.C. No. 15 Competitive Pricing Plans*, CC Docket No. 88-471, Memorandum Order and Opinion, 4 FCC Rcd 7933 (1989) (rejected for unreasonable discrimination under section 202(a)); *AT&T Communications, Tariff F.C.C. No. 15, Competitive Pricing Plan No. 2, Resort Condominiums International, Supplemental Designation Order and Stay*, 7 FCC Rcd 3036 (1992) (*RCI Remand Designation Order*) (raising issues for investigation under sections 201(b) and 202(a) of the Act). Other CPPs were rejected due to AT&T's failure to calculate properly cost support information. See, e.g., *AT&T Communications Revisions to Tariff F.C.C. No. 15, Competitive Pricing Plan No. 7*, 5 FCC Rcd 5620 (1990).

³ 7 FCC Rcd 3036 (1992).

⁴ *1991 Designation Order*, 6 FCC Rcd 6656 (1991).

⁵ 47 U.S.C. Section 204.

⁶ See *AT&T Tariff F.C.C. No. 15, Transmittal No. 1139*.

⁷ *Id.*

⁸ *Id.*

6. Accordingly, IT IS ORDERED that pursuant to section 204(a) of the Communications Act, 47 U.S.C. § 204(a), the investigation instituted by the Common Carrier Bureau in CC Docket No. 90-11 for AT&T Corporation's Tariff F.C.C. No. 15, Transmittal 1854, CPP 2, IS TERMINATED.

7. IT IS FURTHER ORDERED that pursuant to section 204(a) of the Communications Act, 47 U.S.C. § 204(a), the investigations instituted by the Common Carrier Bureau in CC Docket Nos. 90-327 and 91-116 for AT&T Corporation's Tariff F.C.C. No. 15, CPP Nos. 4, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, and 18, ARE TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary